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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,281	07/18/2003	Patrick L. Watson	EKIN:1001	2401
34725	7590	09/22/2006	EXAMINER	
CHALKER FLORES, LLP 2711 LBJ FRWY Suite 1036 DALLAS, TX 75234			CHAU, MINH H	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/623,281

Applicant(s)

WATSON ET AL.

Examiner

Minh H. Chau

Art Unit

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 1-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 37-44** are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Fellows et al.*** (US # 4,752,496) in view of ***Schilli et al.*** (US # 5,552,869).

With respect to **Independent claim 37**, ***Fellows et al.*** teach a method of applying a cosmetics or a scent to a substrates or an article (col. 1, lines 6-9 and col. 3, lines 35-68), comprise the steps of applying a cosmetic slurry carrier or a scented gel carrier to a substrate (col. 3, lines 35-39), the cosmetic slurry carrier or the scented gel carrier comprises one or more fragrances or scents dispersed in or about a polymers matrix (cols. 3-5) and drying or curing the cosmetic slurry carrier or the scented gel carrier by heating (col. 5, lines 59-68)

***Fellows et al.*** teach all the limitations, except for the curing cosmetic slurry carrier or scented gel carrier at a temperature is at about or less than the flashpoint of the scent.

***Schilli et al.*** teach a method for drying liquid or ink at a temperature below or less than the flashpoint of the liquid or ink (cols. 2-3 of Schilli et al.)

In view of this teaching, it would have been obvious to one of skill in the art to modify the method steps of **Fellows et al.** to include the step of drying liquid or ink at a temperature below or less than the flashpoint of the liquid or ink as taught by **Schilli et al.** to assure the curing process of the cosmetic slurry or scented gel applied on the substrate can be carrying out properly.

With respect to **claim 38**, see col. 5, lines 4-10 of **Fellows et al.** that teach the step of providing or applying a protective coating to the substrate.

With respect to **claim 39**, see col. 4, lines 4-10 of **Fellows et al.** that teach the step of providing or applying a protective coating to the cosmetic slurry carrier or the scented gel carrier.

With respect to **claim 40**, see col. 5, lines 45-50 of **Fellows et al.** that teach the cosmetic slurry carrier or the scented gel carrier is applied to the substrate by spraying.

With respect to **claim 41**, see col. 3 of **Fellows et al.** that teach the step of applying the cosmetic slurry carrier or the scented gel carrier to a surface of a substrate; the cosmetic slurry carrier comprising a fragrances or scent and the fragrances or scent is not generally visible during the use of the article.

With respect to **claim 42**, see col. 4 of **Fellows et al.** that teach the cosmetic carrier or the scented gel carrier is clear or colorless.

With respect to **claim 43**, see col. 4 of **Fellows et al.** that teach the cosmetic slurry carrier or the scented gel is applied to substrate by a standard printing techniques or by screen printing.

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With respect to **claim 44**, as explained in the rejection to claim 37 above, it is clear to one of skill in the art that an article of manufacture can be made in accordance with the method steps of 37.

***Response to Remarks/Arguments***

3. Applicant's arguments with respect to claims 37-44 have been considered but are moot in view of the new ground(s) of rejection.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh H. Chau whose telephone number is (571) 272-2156. The examiner can normally be reached on M - TH 9:30AM - 8:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MHC  
September 18, 2006

  
**MINH CHAU**  
**PRIMARY EXAMINER**